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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,831	03/26/2004	Thomas R. Kozel	031673-003000	7955
22204 7590 07/28/2008 NIXON PEABODY, LLP 401 9TH STREET, NW SUITE 900 WASHINGTON, DC 20004-2128				
EXAMINER				
SWARTZ, RODNEY P				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

1. Applicants' Response to Final Office Action, received 23 June 2008, is acknowledged. The proposed amendments of the claims raises new issues and therefore will not be entered.
2. The proposed amendments alter the scope of the claims by deleting detecting "the level of" PGA which denotes a specific level is required, to "detecting" PGA. This new rendering alters the scope of the claims in that any level of soluble PGA is the new standard for detection of bacterial infection. The change of the scope would necessitate a new search and consideration.

In addition, claim 15, as proposed, is not directed to any particular level of soluble PGA. However, dependent claim 16 recites the method of claim 15 wherein "the level of said soluble PGA" is detected by immunoassay. Based on the proposed amendment of claim 15, there would be a lack of antecedent basis in claim 16 for "the level of" because claim 15 would not indicate any level.

Conclusion

3. The amendment will not be entered.
4. All claims remain finally rejected.
5. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rodney P. Swartz, Ph.D., Art Unit 1645, whose telephone number is (571) 272-0865. The examiner can normally be reached on Monday through Wednesday from 9:00 AM to 7:30 PM EST. Thursday is the examiner's work at home day.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Shannon Foley, can be reached on (571)272-0898.

Art Unit: 1645

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Rodney P. Swartz, Ph.D./

Primary Examiner, Art Unit 1645

July 28, 2008